

R.D. # 0008-00
Englewood, NJ

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22

**KELSEY HAYES, INC., D/B/A
TRW LUCAS AEROSPACE¹**
Employer

and

CASE 22-RC-12214

**TRANSPORT WORKERS UNION OF
AMERICA, AFL-CIO**
Petitioner

DECISION AND DIRECTION OF ELECTION

The Petitioner filed a petition under Section 9(c) of the National Labor Relations Act, as amended, seeking to represent an appropriate unit of the Employer's employees. As there were no issues raised which would preclude an election in this matter, I will direct an election in the appropriate unit. For the reasons described below, I find that the unit sought by the Petitioner limited to technicians and excluding plant clerical employees is appropriate.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding,² I find:

¹ The name of the Employer appears as amended at the hearing.

² A brief filed by the Employer has been fully considered. No other briefs were filed.

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.³
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act for the reasons described infra:

All full-time and regular part-time technicians employed by the Employer at its Englewood, New Jersey facility, but excluding all office clerical employees, engineers, team leaders, working section leaders, material clerks, shipping and receiving clerks, guards and supervisors, as defined in the Act.⁴

POSITIONS OF PARTIES

The parties agree that all full-time and regular part-time time technicians employed at the Employer's Englewood, New Jersey facility should be included in the unit found appropriate herein. The parties further agree that office clerical employees, engineers, team leaders, working section leaders, guards and supervisors as defined in

³ The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

⁴ There are approximately 85 employees in the unit.

the Act, should be excluded from the unit. In dispute in this proceeding are whether material clerks and shipping and receiving clerks, referred to by the parties and hereafter herein as “plant clericals,” should be included in the unit. The Employer, contrary to the Petitioner, seeks to include them in the unit, asserting that a unit without them would be inappropriate because they share such a community of interest with the technicians to require their inclusion. The Petitioner maintains that the petitioned for technicians share a separate and distinct community of interest from other employees and that the plant clericals, therefore, should be excluded from the unit. The record reveals no history of collective bargaining for any of these employees.

EMPLOYER’S OPERATIONS AND FACTS

The Employer is engaged in the repair and overhaul of aviation components for both military and civilian aviation customers at its Englewood, New Jersey facility, the only facility involved herein. The components are analyzed, repaired, inspected, packaged and shipped in accordance with Federal Aviation Administration guidelines for each component. In the performance of its operations, the Employer employs approximately 85 technicians and six plant clericals. Technicians and plant clericals work on each of the Employer’s three shifts.

The Employer’s facility consists of a large open space of approximately 25,000 square feet. The technicians repair or overhaul aerospace components using the tools of their trade and work in different areas of the plant, or departments, depending on the type of component that is being repaired or overhauled. These various areas, or departments, include electronics, power generation, hydro

mechanical, flight controls and cargo systems. Material clerks and shipping and receiving clerks work in different areas of the facility. The material clerks work in the back in a separate warehouse area where parts are kept, a portion of which is bonded and caged. Shipping and receiving clerks work in a receiving area near the warehouse cage, where components are received, or in a shipping area near the loading dock, separated from the rest of the plant, from which components are shipped.

When a component arrives in the facility for repair, it is unpacked and checked, along with its accompanying paperwork, by a receiving clerk. If necessary, a more technical inspection may be done by one of two quality receiving technicians who work in the receiving area. Paperwork is transmitted to a customer service representative and either a material clerk or a receiving technician delivers the component to the appropriate area in the plant, where a technician repairs it. After identifying which parts are needed for the repair, the technician inputs this information into his or her computer, from which it is transmitted to a materials clerk. The materials clerk pulls the parts needed from where they are stored, places them in bags and deliver them to bins located in common areas on the floor. The various department technicians will go to the bins to retrieve their parts. On occasion, when parts must be received immediately, in addition to inputting a request for the parts into his or her computer, a technician may walk over to the caged area where the material clerks are working and personally request and receive the parts. After parts are installed and the component repaired, the technician tests it. The component will go through an initial inspection and then a final inspection performed by one of two final

inspection technicians, after which it is certified as being “air-worthy.” The component is then packaged and shipped by a shipping and receiving clerk. The clerk picks up the component from a shelf where it has been placed by a technician after completion. The record reflects that with respect to certain large components, the technicians, who have access to special lifts necessary to work on the components, normally use those lifts to do the packing themselves.

Two witnesses testified at the hearing, the Employer’s operations manager and a technician currently working nights in the flight controls department who had previously worked as a technician on the day shift. The operations manager testified that technicians go to the warehouse area to speak to a materials clerk in order to receive a part. He did not describe the frequency with which this occurs. The technician testified that it happens only about once every couple of months. He also testified that parts are generally brought to common bins on the floor and that when he worked days he observed other technicians waiting in the warehouse area to receive parts about two times and on nights he never observed such. Additionally, he testified that he rarely saw material clerks or shipping and receiving clerks on the plant floor.

Employees classified as technicians generally have received at least two years of specialized college training. Many of them also have mechanics licenses and previous related field experience. Since the skills of the technicians vary, depending on the department in which they work, the Employer provides the technicians with on the job cross-training to enable them to perform work in the various departments. The record further reflects that the plant clericals need a high school diploma to work for the Employer and also receive on the job training in the various aspects of their job.

Material clerks are cross-trained to be shipping and receiving clerks and visa versa. Neither the material clerks nor the shipping and receiving clerks are trained to perform the work of technicians and there is no evidence of any temporary or permanent interchange between them.

The technicians and plant clerical employees generally have different immediate supervision. However, the two receiving technicians, described above, report to an immediate supervisor who also supervises some plant clerical employees.

The record reflects that the technicians and plant clericals are both paid by the hour and are subject to a standard 40-hour work week. While the plant clericals earn between about \$9.00 and \$17.00 per hour, depending on their experience and ability, the technicians earn between about \$15.00 and \$30.00 per hour.

All employees receive an evaluation after three months of employment and annually thereafter. The employees' immediate supervisors prepare the evaluations. The plant clericals and technicians are subject to the same employment benefits described in an employee handbook that is received by all employees. The benefits include a group insurance plan, paid holidays, vacation benefits, a retirement savings plan, tuition reimbursement and an employee assistance plan. They also have use of the same lunchroom. Additionally, all employees are subject to the same employee dress code and policies concerning absenteeism and leave of absence.

UNIT SCOPE

The primary issue here is whether the unit sought by the Petitioner is appropriate for collective bargaining. In making unit determinations, the Board's task is not to determine the most appropriate unit, but simply to determine an appropriate

unit. *P.J. Dick Contracting*, 290 NLRB 150 (1988). In so doing, the Board looks “first to the unit sought by the petitioner. If it is appropriate, [the] inquiry ends. If, however, it is inappropriate, the Board will scrutinize the Employer’s proposals.” *Dezcon, Inc.*, 295 NLRB 109, 111 (1989). A union is, therefore, not required to seek representation in the most comprehensive grouping of employees unless “an appropriate unit compatible with that requested does not exist.” *P. Ballantine & Sons*, 141 NLRB 651 (1966). See also *Bartlett Collins Co.*, 334 NLRB No. 76 (2001).

In the instant case, it appears that there are many factors that would support a finding that the unit sought by the Petitioner, limited to the Employer’s technicians, is appropriate. In that regard, I note that the technicians have received specialized educational training, often of a technical nature not received by the plant clericals whom the Employer seeks to include with them. They also are considerably higher skilled than plant clericals. Additionally, they utilize special tools and equipment and perform distinct duties that cannot be performed by the plant clericals. There is no evidence of any permanent or temporary interchange between the two groups. Further, the technicians are generally compensated at a significantly higher rate of pay than the plant clericals. Additionally, almost all of the technicians have different immediate supervision than do the plant clericals, and they work in different areas of the plant from each other. While there is some integration of the work performed by plant clericals and the technicians and they work in conjunction with each other, their contact does not appear to be so frequent or pervasive as to eliminate a separate identity for, and community of interest enjoyed by, the technicians. Nor is the fact

that the technicians and plant clericals share certain common employment benefits significant enough to require the inclusion of plant clericals in the petitioned-for unit.

Based on the above and the record as a whole, I find that the Employer's technicians share a community of interest separate and distinct from the Employer's other employees and that they constitute an appropriate unit for purposes of collective bargaining. I shall, therefore, direct an election in that unit. See, e.g., *Overnight Transportation Co.*, 322 NLRB 347 (1996); *Fletcher Jones Chevrolet*, 300 NLRB 875(1990); *Dodge City of Wauwatosa, Inc.*, 289 NLRB 459 (1986); *Fisher Controls Co.*, 192 NLRB 514 (1971); *Walker-Roemer Dairies*, 186 NLRB 430 (1970); *United Shoe Machinery Corp.*, 185 NLRB 200 (1970).

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to issue subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained the status as such during the eligibility period and their replacements. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause

since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Transport Workers Union of America, AFL-CIO**.

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the full names and addresses of all the eligible voters shall be filed by the Employer with undersigned, who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in the NLRB Region 22, 20 Washington Place, 5th Floor, Newark, New Jersey 07102, on or before July 25, 2002. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by August 1, 2002.

Signed at Newark, New Jersey this 18th day of July 2002.

Gary T. Kendellen, Regional Director
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